

REMARKS

Applicants would like to thank the Examiner for the substantive review in this case. In the Final Office Action, the Office rejected claims 1-16 and 32-45. More specifically:

- Claims 1-11 and 13-16 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,104,443 (Paul);
- Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Paul in view of Official Notice;
- Claims 32-43 and 45 were rejected under 35 U.S.C. §103(a) as being unpatentable over Paul in view of U.S. Patent No. 5,870,723 (Pare); and
- Claim 44 was rejected under 35 U.S.C. §103(a) as being unpatentable over Paul in view of Pare and Official Notice.

Claims 3, 16 and 34 have been cancelled, and claims 1, 6, 14, 32, 35 and 38 have been amended. Support for the amendments to claims 1, 14 and 32 can be found in the specification in paragraphs [0020], [0033], and [0035]-[0036] and cancelled claims 3, 16 and 34, respectively. The amendments to claim 6 and claims 35 and 38 have been made to correct matters of form based on the amendments to claims 1 and 32, respectively. No new matter has been added as a result of these amendments. Upon entry of this Preliminary Amendment, claims 1, 2, 4-15, 32, 33 and 35-45 will remain pending. For the reasons set forth hereinbelow, Applicants request that the §§102 and 103 rejections associated with the pending claims be withdrawn.

Claims 1, 2 and 4-13

Applicants submit that independent claim 1 is not anticipated by Paul because Paul fails to teach or suggest each and every limitation of independent claim 1. *See* MPEP §2131 (stating that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference). More particularly, Applicants submit that Paul fails to teach or suggest, among other things, “determining whether to apply a delay to processing the financial transaction, wherein said determining includes selecting an amount of a delay period to apply to the processing of the financial transaction,” as required by claim 1.

Paul discloses a method and system for executing electronic funds transactions using a merchant based debit card. *See* Paul at Abstract. The system operates over conventional card

processing infrastructure and utilizes the Automated Clearing House (ACH) processing system to settle the transaction from a consumer checking account or a merchant account in the case of a prepaid card. *See id.* Paul requires the use of an electronic funds instrument, such as a merchant based debit card, to initiate performance of a financial transaction. *See id.* at 2:36-45; 6:1-37; 9:16-21; 16:19-40. Paul then teaches that the transaction is submitted to the ACH processing system, which systematically delays completion of the transaction for an irregular period of time. *See id.* at 4:41-56; 14:45-51; 16:33-34.

Paul does not **select** an amount of a delay period to apply to the processing of the financial transaction. Paul merely submits transactions to the ACH processing system. Processing using the ACH system is subject to an irregular delay period (i.e., the float period), that is inherent to the ACH system. Rather than **selecting** an amount of a delay period to apply to the processing of the financial transaction, as required by claim 1, Paul merely teaches that all transactions processed through the ACH processing system involve an inherent, albeit variable, delay. As such, the ACH delay is variable, rather than selected, as required by claim 1.

For at least this reason, Applicants submit that claim 1 is not anticipated by Paul because Paul fails to disclose each and every element of independent claim 1. *See* MPEP §2131. Applicants further submit that claims 2 and 4-13, which depend from and incorporate all of the limitations of claim 1, are likewise not anticipated by Paul. Accordingly, Applicants request that the rejections associated with claims 1, 2 and 4-13 be withdrawn.

Claims 14 and 15

Applicants submit that independent claim 14 is not anticipated by Paul because Paul fails to teach or suggest each and every limitation of independent claim 14. *See* MPEP §2131. More particularly, Applicants submit that Paul fails to teach or suggest, among other things, “determining whether to apply a delay to processing the financial transaction, wherein said determining comprises **selecting an amount of a delay period to apply to the processing of the financial transaction**,” as required by claim 14.

For substantially the same reasons as set forth above in reference to claim 1, Applicants submit that claim 14 is not anticipated by Paul because Paul fails to disclose each and every element of independent claim 14. *See* MPEP §2131. Applicants further submit that claim 15,

which depends from and incorporates all of the limitations of claim 14, is likewise not anticipated by Paul. Accordingly, Applicants request that the rejections associated with claims 14 and 15 be withdrawn.

Claims 32, 33 and 35-45

Applicants submit that amended independent claim 32 is nonobvious over Paul in view of Pare because the cited references, whether considered alone or in combination, fail to teach or suggest each and every element of amended independent claim 32. *See* MPEP §2143 (stating that one of the elements of a *prima facie* case of obviousness under §103(a) is that the prior art references must teach or suggest all of the claim limitations). More particularly, Applicants submit that the combination of Paul and Pare fails to disclose, among other things, “determining whether to apply a delay to processing the financial transaction, wherein said determining includes selecting an amount of a delay period to apply to the processing of the financial transaction,” as required by claim 32.

Paul discloses a method and system for executing electronic funds transactions using a merchant based debit card. *See* Paul at Abstract. The system operates over conventional card processing infrastructure and utilizes the Automated Clearing House (ACH) processing system to settle the transaction from a consumer checking account or a merchant account in the case of a prepaid card. *See id.* Paul requires the use of an electronic funds instrument, such as a merchant based debit card, to initiate performance of a financial transaction. *See id.* at 2:36-45; 6:1-37; 9:16-21; 16:19-40. Paul then teaches that the transaction is submitted to the ACH processing system, which systematically delays completion of the transaction for a period of time. *See id.* at 4:41-56; 14:45-51; 16:33-34.

As stated above, Paul does not **select** an amount of a delay period to apply to the processing of the financial transaction. Paul merely submits transactions to the ACH processing system. Processing using the ACH system is subject to a delay period (the float period), that is inherent to the ACH system. Rather than **selecting** an amount of a delay period to apply to the processing of the financial transaction, as required by claim 32, Paul merely teaches that all transactions processed through the ACH processing system involve an inherent delay.

Pare does not resolve the deficiencies of Paul. Pare discloses a method and system for tokenless authorization of commercial transactions between a buyer and a seller using a computer system. *See* Pare at Abstract. Pare discloses that a transaction is proposed by a seller and a buyer signals acceptance by entering personal authentication information including a PIN and at least one biometric sample, forming a commercial transaction message. *See id.*

Pare does not teach or suggest **selecting** an amount of a delay period to apply to the processing of the financial transaction, as required by claim 32. Pare does not discuss the selection of any delay period for any purpose.

Accordingly, Applicants submit that amended independent claim 32 is nonobvious over the combination of Paul and Pare because the cited references fail to teach or suggest each and every limitation of claim 32. *See* MPEP §2143. Applicants further submit that claims 33 and 35-45, which depend from and incorporate all of the limitations of claim 32, are also nonobvious over the cited references. *See* MPEP §2143.03 (stating that if an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious). Accordingly, for the reasons set forth hereinabove, Applicants request that the rejections associated with claims 32, 33 and 35-45 be withdrawn.

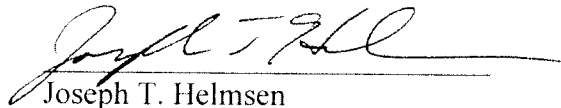
All of the stated grounds of rejection have been properly traversed, accommodated or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. There being no other rejections, Applicants respectfully request that the current application be allowed and passed to issue.

If the Examiner believes for any reason that personal communication will expedite prosecution of this application, I invite the Examiner to telephone me directly.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for this Preliminary Amendment, or credit any overpayment, to deposit account no. 50-0436.

Respectfully submitted,
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